I affirm resolved: In the United States criminal justice system, jury nullification ought to be used in the case of perceived injustice.

I value **morality**.

First, The way the resolution is phrased makes the word “ought” in the resolution evaluative not deliberative. **Finaly:** Finlay, Finlay, S. Associate Professor of Philosophy at USC and Snedegar, J. PhD candidate in philosophy at the University of Southern California, (2012). One Ought Too Many. Philosophy and Phenomenological Research. PE

The **nonagential sentences** (1) and (2) **say** **that certain states of affairs ought to be the case** (the “ought-to-be”). Here ‘**ought’** is commonly glossed as meaning it is best that…, so **we can call these readings evaluative**. 5 From some state of affairs being best nothing directly follows about how any agent has most reason to act, and so **these sentences seem to have at most an indirect bearing on agents’ deliberations**. Sentence (2) entails neither that somebody has most reason to rig the lottery so Larry wins, for example, nor even that Larry has most reason to buy a lottery ticket (the odds of his winning would after all be extremely long). **By contrast,** the **agential sentences** (3) and (4) on a natural reading do seem to **entail claims about the agents’ reasons to act, and so to bear directly on their deliberations** **(the “ought-to-do”).** **They do not**, however, **entail that any particular state of affairs would be best. We can call these readings deliberative**. Mark Schroeder identifies five hallmarks that distinguish deliberative readings from evaluative readings. **Unlike the evaluative ‘ought’, the deliberative ‘ought’** (i) matters directly for advice; (ii) functions to close deliberation; (iii) **is** characteristically **tied to assessments of agents’ accountability;** (iv) implies ‘can’; 6 **and** (v) **is closely related to obligation.** 7 We agree that these differences between readings exist, but reject the claim that the Uniformity Thesis cannot accommodate and explain them.

Thus, the aff is an on face evaluation of whether or not jury nullification “ought to be” used as a non-obligatory action. The aff is not tied to the accountability of the jury.

**Framework:**

Next, Separating the law from notions of morality skew our notions of right and wrong and don’t account for intrinsic prejudices. **Fuller:** Lon L. Fuller a noted legal philosopher, of Law at Harvard University, and noted in American law for his contributions to the law of contracts. **“**Positivism and Fidelity to Law: A Reply to Professor Hart” http://www.jstor.org/stable/1338226 1958; PE

It is characteristic of those sharing the point of view of Professor Hart that their **[a] primary concern is to preserve the integrity of the concept of law**. Accordingly, they have generally sought a precise definition of law, **but [scholars] have not been at pains to state just what** it is they mean **to exclude by** their definitions. They are like men building a wall for the defense of a village, who must know what it is they wish to protect, but who need not, and indeed cannot, know what invading forces those walls may have to turn back. **When** Austin and Gray **distinguish[ing] law from morality, the word "morality" stands indiscriminately for almost every conceivable standard by which human conduct may be judged that is not itself law**. The inner voice of conscience, **notions of right and wrong** based on religious belief, **common conceptions of decency and** fair play, **culturally conditioned prejudices** - all of these are grouped together under the heading of "morality" and **are excluded from the domain of law**. For the most part Professor Hart follows in the tradition of his predecessors. When he speaks of morality he seems generally to have in mind all sorts of extralegal notions about "what ought to be," regardless of their sources, pretensions, or intrinsic worth. This is particularly apparent in his treatment of the problem of interpretation, where uncodified notions of what ought to be are viewed as affecting only the penumbra of law, leaving its hard core untouched.

Thus we must recognize a law beyond its description; it must be used to represent a general direction of human effort. **Fuller 2:** Lon L. Fuller a noted legal philosopher, of Law at Harvard University, and noted in American law for his contributions to the law of contracts. **“**Positivism and Fidelity to Law: A Reply to Professor Hart” http://www.jstor.org/stable/1338226 1958; PE

This **state of affairs** has **[have] been** most **unsatisfactory** **for those** of us **who are convinced that "positivistic" theories have had a distorting effect on the aims of legal philosophy.** Our dissatisfaction arose not merely from the impasse we confronted, but because this impasse seemed to us so unnecessary. All that was needed to surmount it was an acknowledgment on the other side that its **definitions of "what law really is" are not mere images** of some datum **of experience**, **but** direction **posts for the application of human energies**. Since this acknowledgment was not forthcoming, the impasse and its frustrations continued. **There is** indeed **no frustration greater than to be confronted by a theory which purports merely to describe,** when it not only plainly prescribes, but owes its special prescriptive powers precisely to the fact that it disclaims prescriptive intentions. Into this murky debate, some shafts of light did occasionally break through, as in Kelsen's casual admission, apparently never repeated, that his whole system might well rest on an emotional preference for the ideal of order over that of justice.' But I have to confess that in general the dispute that has been conducted during the last twenty years has not been very profitable. Now, with Professor Hart's paper, the discussion takes a new and promising turn. It is now explicitly acknowledged on both sides that one of the chief issues is how we can best define and serve the ideal of fidelity to law. **Law**, as something deserving loyalty, **must represent a human achievement; it cannot be a simple fiat of power** or a repetitive pattern discernible in the behavior of state officials. **The respect we owe to human laws must surely be something different from the respect we accord to the law of gravitation. If laws**, even bad laws, **have a claim to our respect, then law[s] must represent some general direction of human effort** that we can understand and describe,and **that we can approve in principle even at the moment when it seems to us to miss its mark.**

This results in the Law of Integrity, which requires defending individual liberties from unjust legal interpretations. **West:** Robin West Professor of Law and Philosophy and Associate Dean at the Georgetown University Law Center  **“**Integrity and Universality: A Comment on Ronald Dworkin's Freedom's Law” 1997; <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3331&context=flr>; PE

The additional argument that I want to suggest for the necessity of an "integrity of principle" to constitutional decision making is simply this: Constitutional law is a branch of law, and constitutional adjudication is a type of adjudication. The moral "point" of all adjudication, to use one of Dworkin's many helpful aphorisms, 12 is a specific type of justice, namely legal justice. **When courts adjudicate cases by** crafting and **applying** **law, what they aim to achieve is legal justice**. When they decide constitutional cases, things are no different: They accordingly aim for legal justice in constitutional cases as well. What legal justice requires, in turn, is that like cases be decided alike. The mandate that similar cases be decided similarly is quite explicitly at the heart of the common law's rule of precedent, or stare decisis, it is the essence of the idea of the "Rule of Law," it is arguably at the heart of the idea of Law itself, and, to personalize the matter somewhat, it is at the heart of the judicial vow to faithfully "uphold the law." The mandate that like cases be decided alike intersects with the requirement of "integrity" in two distinct ways. First, and as Dworkin has argued in this book and at greater length in Law's Empire, **a legal system-**a pattern of results-**has "integrity" when cases are decided consistently**, and lacks integrity when the pattern is marred by unexplained inconsistencies. 13 **But** second, **if,** as I suggested above, **the requirement of consistency is imposed upon** constitutional adjudication not only by the Constitution, but also **by the demands of justice, then it follows that** constitutional **cases that lack integrity**-**that are inconsistent-are simply unjust**. Thus, one might argue, the result in Romer v. Evans'4 is fundamentally unjust because it fails the test of integrity: The citizens of Colorado were entitled to a decision consistent with past precedent, namely Bowers,'5 and the failure of the Court to meet that legitimate expectation was an act of injustice. "Integrity of principle" is therefore necessary to constitutional adjudication, because it is required by justice. Of what value, precisely, is integrity, understood as the consistency in results to which the exercise of that virtue leads? Why is it so important to treat like cases alike, in constitutional cases or elsewhere? A common, but I think incomplete, answer is that consistency or integrity in the application of public force renders that force more predictable, and hence manageable, than would be the case if state force was to be applied arbitrarily or inconsistently. **Integrity in the administration of justice accordingly strengthens our individual liberty by giving us some degree of protection against unwarranted or**, at any rate, **unpredictable** state **intrusion**. This is surely true, but also, I think, not the entire picture. Our revulsion when faced with glaring examples of legal injustice strongly suggests that more than our needs or desires to control our own future, or even more broadly our individual liberty, is compromised when legal integrity is sacrificed for some other noble or ignoble end. Let me quickly bring to mind a few examples of flagrant injustice, in the non-constitutional context, just to suggest what else may be at stake. In the mid-sixties, Bob Dylan immortalized a wealthy and well-connected murderer from Maryland's eastern shore by the name of William Zanzinger. At a "Baltimore Hotel Society gathering," Zanzinger, as reported in the newspapers, struck, in a fit of pique with his walking cane, an African American woman named Hattie Carroll, a mother of ten children, who was employed as a maid at the gathering he was attending, and caused her death. This was a grotesque crime, but not the subject of Dylan's song. Rather, Dylan's "social protest" focused not on the crime but the legal injustice of the sentence: The well-connected and well-heeled Zanzinger received for his crime from a sympathetic Baltimore City judge a sentence of six months jailtime. Similarly, and more recently, Maryland residents may recall a defendant by the name of Peacock, who, like Zanzinger, had also committed a horribly brutal murder, but who, again like Zanzinger, also received notoriety not because of the crime he committed-which was a commonplace act of fatal domestic violencebut rather, because he was the beneficiary of legal injustice. Peacock received from a Baltimore County judge a sentence of eighteen months in a work-release program for killing his wife in anger, three hours after finding her engaged in an act of adultery. He received his sentence after first listening to the judge deliver a colloquia at the hearing, in which he, the judge, professed his belief in the defendant's moral innocence, his lack of criminality, and the judge's sympathetic identification with the defendant's state of mind and deed. Anyone, the judge opined, would be hard pressed to refrain from acting as Peacock had acted. Just as it was Zanzinger's unjust sentence-not his crime-which sparked Dylan's protest, so it was Peacock's sentencenot the crime-which prompted the public uproar and, eventually, the public hearing levelled against the judge, after the judge's comments were made public. 6 To cite just one further example, it is still a fresh wound for many of us that a defendant named O.J. Simpson, with the help of seemingly endless wealth, hired lawyers who cynically manipulated a jury toward a false verdict of innocence. Again, the crime was horrible enough, but it was the injustice of the verdict, and the process used to produce it, that continues to rankle the legal conscience. It is the unjust verdict, not the violent crime, that violates the demands of an integrity of principle. The feelings of disgust and disbelief coupled with a sense of betrayal and hollow emptiness that these cases and others like them engender-even in those of us disenchanted with the punitive premises of even a well functioning criminal justice system-suggest, I think, that legal injustice-the failure to treat likes alike-touches in us something elemental, and something which is seemingly unrelated to our understandable desire for predictability and rationality in state actions. **Cases of legal injustice-of the system's refusal or inability to render decisions** **that effectively treat like cases alike-are** so **offensive**, I believe, because they fly in the face of our experiential sense that all of us, as human beings, share a common, universal nature. Indeed, it is by virtue of that shared nature that we know that these particular acts, whatever their individuating circumstances, are horrendously wrong. Our moral conviction that the singular important implication of that universal, shared nature is that it, in turn, demands similar treatment by those empowered to act upon us in life-altering ways. **Legal injustice violates our** fraternal **conviction** **that, in spite of our many differences**, **we are alike** in very critical fundamental ways. That conviction is shattered when radically different norms are applied to some individuals, but not applied to the rest of us. The result of legal injustice is not, then, just a diminution in personal liberty. It is also a violation of our fraternal feelings of kinship, and our conviction that because of that kinship we can each lay claim to a measure of equality in our individual worth. By virtue of the violation of that pact, **legal injustice is a rending of the bonds of community, no less than a diminution of the scope of individual liberty.**

Thus, the standard is protecting individual liberties using the *law of integrity.* This means cases universally are consistently decided unless they are unjust and hinder our individual liberties.

Additional Reasons to Prefer:

1. It is impossible for a legal system to operate solely under rules because when rules conflict it would be impossible to act. **Dworkin:** Ronald M. Dworkin a Jewish-American philosopher and scholar of United States constitutional law and jurisprudence.  ; “The Model of Rules”; 1967; <http://www.jstor.org/stable/pdf/1598947.pdf?acceptTC=true> PE

This first difference between rules and principles entails another. **Principles have a dimension that rules do not-the** dimension of **weight or importance.** **When principles intersect** (the policy of protecting automobile consumers intersecting with principles of freedom of contract, for example), **one who must resolve the conflict has to take into account the relative weight of each.** This cannot be, of course, an exact measurement, and the judgment that a particular principle or policy is more important than another will often be a controversial one**.** Nevertheless, it is an integral part of the concept of a principle that it has this dimension, that it makes sense to ask how important or how weighty it is. **Rules do not have this dimension**. **We can speak of rules as being functionally important or** unimportant (the baseball rule that three strikes are out is more important than the rule that runners may advance on a balk, because the game would be much more changed with the first rule altered than the second). In this sense, **one legal rule may be more important than another because it has a greater or more important role in regulating behavior**. **But we cannot say that one rule is more important than another within the system of rules,** **so that when two rules conflict one supercedes the other by virtue of its greater weight**. **If two rules conflict, one of them cannot be a valid rule.** The decision as to which is valid, and which must be abandoned or recast, must be made by appealing to considerations beyond the rules themselves. A legal system might regulate such conflicts by other rules, which prefer the rule enacted by the higher authority, or the rule enacted later, or the more specific rule, or something of that sort. A legal system may also prefer the rule supported by the more important principles. (Our own legal system uses both of these techniques.) It is not always clear from the form of a standard whether it is a rule or a principle. "A will is invalid unless signed by three witnesses" is not very different in form from "A man may not profit from his own wrong," but one who knows something of American law knows that he must take the first as stating a rule and the second as stating a principle. In many cases the distinction is difficult to make-it may not have been settled how the standard should operate, and this issue may itself be a focus of controversy. The first amendment to the United States Constitution contains the provision that Congress shall not abridge freedom of speech. Is this a rule, so that if a particular law does abridge freedom of speech, it follows that it is unconstitutional? Those who claim that the first amendment is "an absolute" say that it must be taken in this way, that is, as a rule. Or does it merely state a principle, so that when an abridgement of speech is discovered, it is unconstitutional unless the context presents some other policy or principle which in the circumstances iweighty enough to permit the abridgement? That is the position of those who argue for what is called the "clear and present danger" test or some other form of "balancing."

1. Analyzing principles under legal interpretations is key to analyzing and fixing the system. If we analyze jury nullification through a normative process it will obscure us from the real world issues in the CJS and how we can solve for them.
2. Ought[[1]](#footnote-1) is “**used to show what is correct**” The resolution asks specifically about the correctness of jury nullification, which textually implies analysis through a legal fw because jury nullification is a legal principle.

Additional reasons to prefer: a) Topic Lit- the literature is centered around legal merits of Jury Nullification, thus all other frameworks would be unpredictable, additionally we only have two months to debate the topic and we haven’t had a topic that allowed us to analyze the legal system in years thus it is key to legal education. Predictability is key because both debaters should have the same pre-round knowledge. Legal education is key because it allows us learn about the legal system and apply it to the topic lit. **b)** Actor-specificity: legal frameworks identify unique features of state obligations in context. Other fw’s encourage ambiguous agents and lit bases, which kills all educational benefits Also controls the internal link to other T standards since while claims about predictability or common usage might be true in general, they aren’t when discussing the obligations of a class of countries. c) Moral properties can’t be debated about coherently since these entities would be too strange. **Mackie[[2]](#footnote-2)**:

Even more important and certainly more generally applicable is the argument from queerness. If there were objective values, then they would be entities or qualitiesor relations of a very strange sort, utterly different from everything else in the universe. Correspondingly, if we were aware of them, it **would** **have** **to** be by some special faculty or moral perception or intuition, utterly different from our ordinary ways of knowing everything else. When we ask the awkward question, how we can be aware of the truth of values, none of our ordinary accounts of sensory perception or introspection or the framing and confirming of explanatory hypotheses or inference or logical construction or conceptual analysis, or any combination of these, will provide a satisfactory answer; ‘a special sort of intuition’ lame answer, but it is the one to which the clear-headed objectivist is compelled to resort**.**

Three impacts: **a)** other definitions collapse—we don’t have the sensory capability to know objective values, obligations have to be grounded in real-world codes for us to be aware of their existence and for them to guide our action, **b)** agents can continuously question why morality should have any grasp on them; only legal interps prevent them from embracing skepticism since physical contracts include explicit consent to be governed by that contract whereas hypothetical instances of morality collapse into assertions, **c)** interps about ethical debate rely on non-verifiable facts and ignoring inevitable logical fallacies; empirically proven by thousands of years of moral disagreement. Other interps thus kill education since we’re learning bad arguments, and are un-resolvable since we can’t make valid ethical propositions. Resolvability is key to fairness since it’s necessary to determine a winner.

**Contention:**

I contend that jury nullification is consistent with the law of integrity and is necessary to hinder unjust laws. I defend that jurors will be informed that they can nullify through legal means. I do not specify an actor but if the neg would like me to do so they can ask me in CX.

1) Jurry nullification allows the jury to analyze court cases in context and confront cases that don’t have clear rule applications. **Murchison**: Melanie Murchisonan ABD, working on completing her thesis, in Law from Queen's University Belfast. ;“The Law, Morality and Social Discourse: Jury Nullification in a Canadian Context”; <file:///Users/Paul/Downloads/SSRN-id2277604.pdf>; 2013 PE

While Dworkin himself never discusses the process of jury nullification at length, he does mention its existence in his book Freedom’s Law in reference to the American Kevorkian cases, stating that “a jury, expressing the depths of public sympathy for patients dying in pain, refused to convict Kevorkian of violating the [special Michigan] statute, even though he admitted that he had” and that “patients only to go [Kevorkian] - and juries only acquit him – because there is no better alternative”188. This statement essentially promotes jury nullification in this circumstance, because Dworkin later states that “Making someone die in a way others approve, but he believes contradicts his own dignity is a serious, unjustified, unnecessary form of tyranny”189. Other scholars have discussed jury nullification using Dworkin’s theories using American case law and believe that Dworkin would absolutely support the process of jury nullification. For example, Darryl Brown states that Dworkin provides **a** stable **source of guidance for cases in which** seemingly **literal rule** application **would yield a result** widely **considered unjust** and this… **opens the door for** understandinghow **jury nullification** can occur **within** **the rule of law**; we might now describe such a verdict as principled, or lawful, nullification. **Juries**, like judges, **and like citizens** making decisionson everyday courses of action, **confront cases in** **which** seemingly literal or **clear rule applications are not appropriate** **because in the context of the case they conflict with other compelling** norms, **principles**, or values”190 . Brown goes further to say that nullification can identify statutes that are, in Dworkin’s words, “internally compromised”, because laws only "count as legal" when they "follow from the principles of personal and political morality the explicit decisions presuppose by way of justification”191. Arie M. Rubenstein draws on Brown’s work and states that as Dworkin says, laws unavoidably criminalize conduct that lawmakers did not intend to reach, and that **nullification is a positive way** to hold the lawmakers accountable192. In addition, Dworkin himself concludes that it is a prerequisite of the rule of law for ordinary citizens **to interpret criminal laws** and as such, nullification is always a possibility193. Rubenstein also states that role of the jury is to control legislative power, and that as such, “the jury trial should be structured in such a way as to support this antidespotic function; because a fact-finding jury cannot serve these ends, this structure requires the possibility of nullification”194. This means that **even just laws can be applied unjustly**, **and the function of the jury is to serve as a safety** valve **against unjust application of the law**. Thus, the jury is framed as a control not on legislative power, but on prosecutorial power. “Under this model, **jury nullification allows the system to maintain a**n **otherwise** reasonable **law while fulfilling justice concerns**. Some have suggested that the jury can act as a control on unjust applications of both legislative and executive power. Under this view, through nullification the jury signals the other branches as to the acceptability of their actions” It may appear to some that Judge Earl nullifies the law in Dworkin’s example, the “Elmer Case” as the majority decided that the law did not in fact require the statute of wills to be interpreted so that the son would receive the benefits, even though the statute clearly stated that the beneficiary of the will should receive the sum owed to them196.

2) Jury Nullification is the only way to give the jury the ability to work with the Law of Integrity. **Murchison 2**: Melanie Murchisonan ABD, working on completing her thesis, in Law from Queen's University Belfast. ;“The Law, Morality and Social Discourse: Jury Nullification in a Canadian Context”; <file:///Users/Paul/Downloads/SSRN-id2277604.pdf>; 2013 PE

However, this process is instead a process of judicial interpretation, as the judges, having identified these as “hard cases”, are simply engaging their proper interpretive functions. In this way, it is possible to argue that findings by the jury of “not guilty” in the Krieger or Morgentaler provide a signal that these were “hard” cases. We saw above that for Dworkin, hard **cases arise where there are reasons for the plain** meaning **reading of the law not to apply**. It may well be that **the jury** did **[may] not find fault with** the **particular statute prohibiting the sale and distribution of Narcotics, but** that **instead** they found **[find] compelling reasons** in this case **as to why the statute should be interpreted** in this different way. In other words, **when juries nullify** it may show that they are dealing with a “hard” case. Both Hercules and the jury would begin by starting down the same path, deviating from a plain fact interpretation and finding this case to be a “hard” one. Hercules would then **[they] have the tools at** his **disposal to use the Law as Integrity** **approach and consider compelling reasons to interpret the statute differently,** while the jury must rely solely on their morality to make a decision and then leave further interpretation to judges or legislators. **Judges cannot always be Hercules,** and **sometimes it is the job of the jury to signal** that particular cases should be viewed as “hard cases” and that there needs to be **a search of interpretation beyond the statute’s plain meaning**. Judges and juries both rely on moral values to assess whether or not they are faced with a “hard case”. Juries however, lack the interpretive tools that judges have and the ability to have their decisions become precedent; thus the choice is a stark one between conviction and acquittal. On the other hand, judges faced with a hard case must take the additional step of trying to reach the right answer using all of the steps of the law as integrity approach. The repeated refusal of juries to convict Morgentaler even though according to the plain meaning of the law he appeared to be factually guilty, may be seen as a signal to judges that these are, in fact, hard cases. The fact that a jury nullifies does not necessarily mean that a law and integrity approach requires an acquittal however. At the time of this case, public sentiment was completely divided on the issue of abortion, and groups on both sides of the issue argued at the same time that the statute was both too lenient and too strict197 . As well, in the Krieger case which made it to the Supreme Court, the jury found Krieger to be not guilty, but in the re-trial years later, a new jury convicted Krieger. Morgentaler on the other hand, was never convicted by a jury, even though he faced them repeatedly with the same charges

**Underview:**

1) Jury nullification is key to check governmental power. **Scheflin**: Alan Scheflin and Jon Van Dyke, Jury Nullification: The Right to Say No , 45 S. Cal. L. Rev. 168 (1972), at:<http://digitalcommons.law.scu.edu/facpubs/686> PE

Lawrence Velvel argues that **the notion of jury nullification is** "a kind of repository **of grass roots democracy**" since **ordinary citizens can effectively say no to their rulers when their** policies and **laws are no longer in touch with the will of the people**. 65 This argument is strengthened by examination of the fundamental justification for the jury. In Duncan v. Louisiana,66 the Supreme Court interpreted the sixth amendment right to trial by jury in these terms: A right to jury trial is granted to criminal defendants in order to prevent oppression by the Government. Those who wrote our constitutions knew from history and experience that it was necessary to protect against unfounded criminal charges brought to eliminate enemies and against judges too responsive to the voice of higher authority. The framers of the constitutions strove to create an independent judiciary but insisted upon further protection against arbitrary action. Providing the accused with the right to be tried by a jury of his peers gave him an inestimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased, or eccentric judge.... **Fear of unchecked power**, so **typical of our State and Federal Governments** in other respects, **found expression** in the criminal law **in this insistence upon community participation in the determination of guilt or innocence**. As de Tocqueville observed over 100 years ago, "the jury is emphatically a political institution."' Some contemporary writers agree.6 As a political institution, **the jury system has** ".... **developed in harmony with our basic concepts of a democratic society and a representative government**."70 **Through the jury as a political institution, the legal system achieves legitimacy**

**One,** presume aff to counterbalance time skew, neg win percentage, and ability to tailor advocacy on the AC. Prefer theoretical presumption since theory frames the evaluation of all substance. Fairness is a voter and precedes substance to ensure the ballot reflects debating skill and not unfair advantages. **And,** substantive presumption also flows aff since **a)** we always presume something true until proven otherwise because otherwise we wouldn’t be able to begin to consider anything because our thought process would itself be suspect, **b)** Presuming neg would force the aff to prove a negative existential claim regarding constraints, the veracity of which is almost impossible to be proven, which is key to fairness since it makes it impossible for me to win.

**Second,** The Neg must defend that jury nullification ought not to be used in the face of perceived injustice. **1)** if the Neg is not forced to defend the converse of the resolution they can nullify 6 minutes of AC speech time by refusing to engage in the aff which kills **a)** time because they nullify my speech time **b)** clash because they dosent have to engage in the aff to win. Time skew is key to fairness so we have equal times to win the debate. Clash is key to education only 2 months to debate the topic **2)** the negative could go any possible alternative system or read any argument while I am bound to one. Reciprocity key to fairness because it ensures equal in round burdens.

**Third,** drop the arg on neg T and re-evaluate my offense under their interp: binary T definitions make the aff subject to T no matter what is run in the AC. I have to pick one interp, so don’t punish me for going into the round blind, **At worst,** T is an aff RVI since the neg can spread out the 1AR **Also,** the drop the arg warrants justify why the aff is at a unique disadvantage on theory, so they all independently justify an RVI if theory is drop the debater. **And**, “I meets” and “no abuse” claims deserve equal credence as counter-interps and trigger an RVI since CX grants time to clarify violations and abuse stories prior to running theory.

Other stuff:

The legal system operates on principles not rules- rules don’t make sense in the context of the law. **Dworkin:** Ronald M. Dworkin a Jewish-American philosopher and scholar of United States constitutional law and jurisprudence.  ; “The Model of Rules”; 1967; <http://www.jstor.org/stable/pdf/1598947.pdf?acceptTC=true> PE

I want to make a general attack on positivism, and I shall use H. L. A. Hart's version as a target, when a particular target is needed. My strategy will be organized around the fact that **when lawyers** reason or **dispute** **about** **legal rights and obligations**, particularly in those hard cases when our problems with these concepts seem most acute, **they make use of standards that do not function as rules, but operate** differently **as principles [and]**, **policies**, and other sorts of standards. **Positivism**, I shall argue, **is** **a model of** and for a system of **rules**, **and** **its central notion of a single** fundamental **test for law** forces us to miss the important roles of these standards that are not rules. I just spoke of "principles, policies, and other sorts of standards." Most often I shall use the term "principle" generically, to refer to the whole set of these standards other than rules; occasionally, however, I shall be more precise, and distinguish between principles and policies. Although nothing in the present argument will turn on the distinction, Ishould state how I draw **it. I call a "policy"** that **[is a] kind of standard that sets out a goal to be reached**, **generally an improvement in** **some economic, political, or social feature** of the community (though some goals are negative, in that they stipulate that some present feature is to be protected from adverse change**). I call a "principle" [is a] a standard that is to be observed, not because it will advance or secure** **an economic, political, or social situation** deemed desirable, **but** **because it is a requirement of justice** or **fairness or some other dimension of morality**. Thus the standard that automobile accidents are to be decreased is a policy, and the standard that no man may profit by his own wrong a principle. The distinction can be collapsed by construing a principle as stating a social goal (i.e., the goal of a society in which no man profits by his own wrong), or by construing a policy as stating a principle (i.e., the principle that the goal the policy embraces is a worthy one) or by adopting the utilitarian thesis that principles of justice are disguised statements of goals (securing the greatest happiness of the greatest number). In some contexts the distinction has uses which are lost if it is thus collapsed.8 My immediate purpose, however, is to distinguish principles in the generic sense from rules, and I shall start by collecting some examples of the former. The examples I offer are chosen haphazardly; almost any case in a law school casebook would provide examples that would serve as well. In 1889 a New York court, in the famous case of Riggs v. Palmer,9 had to decide whether an heir named in the will of his grandfather could inherit under that will, even though he had murdered his grandfather to do so. The court began its reasoning with this admission: "It is quite true that statutes regulating the making, proof and effect of wills, and the devolution of property, if literally construed, and if their force and effect can in no way and under no circumstances be controlled or modified, give this property to the murderer."''0 But the court continued to note that "all laws as well as all contracts may be controlled in their operation and effect by general, fundamental maxims of the common law. No one shall be permitted to profit by his own fraud, or to take advantage of his own wrong, or to found any claim upon his own iniquity, or to ac quire property by his own crime."1l The murderer did not receive his inheritance. In 1960, a New Jersey court was faced, in Henningsen v. Bloomfield Motors, Inc.,12 with the important question of whether (or how much) an automobile manufacturer may limit his liability in case the automobile is defective. Henningsen had bought a car, and signed a contract which said that the manufacturer's liability for defects was limited to "making good" defective parts-"this warranty being expressly in lieu of all other warranties, obligations or liabilities." Henningsen argued that, at least in the circumstances of his case, the manufacturer ought not to be protected by this limitation, and ought to be liable for the medical and other expenses of persons injured in a crash. He was not able to point to any statute, or to any established rule of law, that prevented the manufacturer from standing on the contract. The court nevertheless agreed with Henningsen. At various points in the court's argument the following appeals to standards are made: (a) "[W]e must keep in mind the general principle that, in the absence of fraud, one who does not choose to read a contract before signing it cannot later relieve himself of its burdens."13 (b) "In applying that principle, the basic tenet of freedom of competent parties to contract is a factor of importance. "14 (c) "Freedom of contract is not such an immutable doctrine as to admit of no qualification in the area in which we are concerned. "15 (d) "In a society such as ours, where the automobile is a common and necessary adjunct of daily life, and where its use is so fraught with danger to the driver, passengers and the public, the manufacturer is under a special obligation in connection with the construction, promotion and sale of his cars. Consequently, the courts must examine purchase agreements closely to see if consumer and public interests are treated fairly."'16 (e) " '[I]s there any principle which is more familiar or more firmly embedded in the history of Anglo-American law than the basic doctrine that the courts will not permit themselves to be used as instruments of inequity and injustice?' "'7 (f) "'More specifically, the courts generally refuse to lend themselves to the enforcement of a "bargain" in which one party has unjustly taken advantage of the economic necessities of other The standard set out in these quotations are not the sort we think of as legal rules. They seem very different from propositions like "The maximum legal speed on the turnpike is sixty miles an hour" or "A will is invalid unless signed by three witnesses." They are different because they are legal principles rather than legal rules. **The difference between legal principles and legal rules is a logical distinction**. **Both sets of standards point to particular decisions about legal obligation in particular circumstances, but** they differ in the character of the direction they give. **Rules are applicable in an all-or nothing fashion.** If the facts a rule stipulates are given, then either the rule is valid, in which case the answer it supplies must be accepted, or it is not, in which case it contributes nothing to the decision. This all-or-nothing isseen most plainly if we look at the way rules operate, not in law, but in some enterprise they dominate-a game, for example. In baseball a rule provides that if the batter has had three strikes, he is out. An official cannot consistently acknowledge that this is an accurate statement of a baseball rule, and decide that a batter who has had three strikes is not out. Of course, a rule may have exceptions (the batter who has taken three strikes is not out if the catcher drops the third strike). However, an accurate statement of the rule would take this exception into account, and any that did not would be incomplete. If the list of exceptions is very large, it would be too clumsy to repeat them each time the rule is cited; there is, however, no reason in theory why they could not all be added on, and the more that are, the more accurate is the statement of the rule. If we take baseball rules as a model, we find that rules of law, like the rule that a will is invalid unless signed by three witnesses, fit the rm-odel well. If the requirement of three witnesses is a valid legal rule, then it cannot be that a will has been signed by only two witnesses and is valid. The rule might have exceptions, but if it does then it is inaccurate and incomplete to state the rule so simply, without enumerating the exceptions. In theory, at least, the exceptions could all be listed, and the more of them that are, the more complete is the statement of the rule. But this is not the way the sample principles in the quotations operate. Even those which look most like rules do not set out legal consequences that follow automatically when the conditions provided are met. **We say that our law respects the principle that no man may profit from his own wrong, but we do not mean that the law never permits a man to profit from wrongs he commits**. **In fact, people often profit, perfectly legally, from their legal wrongs**. The most notorious case is adverse possession-if I trespass on your land long enough, some day I will gain a right to cross your land whenever I please. There are many less dramatic examples. **If a man leaves one job, breaking a contract, to take a much higher paying job, he may have to pay damages to his first employer, but he is usually entitled to keep his new salary**. If a man jumps bail and crosses state lines to make a brilliant investment in another state, he may be sent back to jail, but he will keep his profits.

It does not make sense to not be able to nullify because the things we consider to be “laws” in the real world are in reality principles.

1. http://dictionary.reference.com/browse/ought [↑](#footnote-ref-1)
2. [Mackie, John Leslie. Fellow of University College, Oxford. Ethics Inventing Right and Wrong. 1977. Chp 1: “The subjectivity of Values”. P 38.] [↑](#footnote-ref-2)